

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the amendments above and the following remarks. Claims 1-24 and 12-24 are pending of which claims 1, 14, 18 and 22 are independent.

Claims 1-4 and 12-24 were rejected under 35 U.S.C. §102(e) as being anticipated by Mohan et al.(2005/0108368).

Claims 1, 14 and 18-21 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Claims 1, 14, 22 and 24 were rejected under 35 U.S.C. §112 second paragraph.

Claims 4, 5, 17, 21 and 24 were objected to for minor informalities.

These objections and rejections are respectfully traversed for the reasons stated below.

Claims 5-11 were indicated as including allowable subject matter, but were objected to as being dependent on a rejected base claim.

Drawings

No indication was provided in the Office Action Summary of whether the formal drawings filed with the applications are accepted. The Examiner is requested to indicate in the next communication whether the formal drawings filed with the applications are accepted.

Objections to Claims 4, 5, 17, 21 and 24

Claims 4, 5, 17, 21 and 24 were objected to for minor informalities. The claims have been amended in accordance with the Examiner's suggestions. Accordingly, withdrawal of the objections is respectfully requested.

Claim Rejections Under 35 U.S.C. §112, second paragraph

Claims 1, 14, 22 and 24 were rejected under 35 U.S.C. §112 second paragraph. The claims have been amended in accordance with the Examiner's suggestions. Accordingly, withdrawal of the rejections under 112 second paragraph is respectfully requested.

Claim Rejection Under 35 U.S.C. §101

Claims 1, 14 and 18-21 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. The rejection stated that claims 1 and 14 do not specify an output. Claims 1 and 14 have been amended to recite a practical application of identifying samples to determine search results for a query. Accordingly, claims 1 and 14 are believed to be statutory.

The rejection also stated that claims 18-21 are not limited to statutory embodiments and need to be amended to include only the physical computer media. Claim 18 has been amended to recite "physical". Accordingly, claims 18-21 are believed to be statutory.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1-4 and 12-24 were rejected under 35 U.S.C. §102(e) as being anticipated by Mohan et al.

The rejection states that the rejection may be overcome by providing an appropriate showing under 37 CFR 1.131. Enclosed is a rule 131 declaration providing evidence that there was conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application. The effective date of the reference, Mohan et al. is October 30, 2003. The enclosed declaration provides evidence that the invention was conceived at least by October 6, 2003, which is prior to the effective date of the reference. The enclosed declaration also provides evidence that there was due diligence from prior to the reference date to the filing date of the application. Accordingly, the rejection of claims 1-4 and 12-24 under 35 U.S.C. §102(e) is believed to be overcome, and these claims are believed to be allowable.

PATENT

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Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

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